

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** March 24, 2014

**COUNCIL DISTRICT:** 3

**SUBJECT: FILE NO. C13-042. A CONVENTIONAL REZONING FROM THE LI - LIGHT INDUSTRIAL ZONING DISTRICT TO THE DC – DOWNTOWN PRIMARY COMMERCIAL ZONING DISTRICT ON A 0.10 GROSS ACRE SITE.**

## **RECOMMENDATION**

The Planning Commission voted 5-1-1 (Commissioner Kline opposed, Commissioner Bit-Badal absent) to recommend that the City Council deny the request for Conventional Rezoning of the property located on the northeast corner of Lorraine Avenue and S. Montgomery Street.

## **OUTCOME**

Should the City Council approve the Conventional Rezoning of the subject parcel from the LI – Light Industrial Zoning District to the DC - Downtown Primary Commercial Zoning District, the applicant would be able to proceed with subsequent Development Permits to allow for uses consistent with the applicable Downtown Primary Commercial Zoning District.

## **BACKGROUND**

On March 12, 2014, the Planning Commission held a public hearing to consider the proposed Conventional Rezoning.

Staff introduced the proposed rezoning and provided a brief overview of the Planning process for both the rezoning and the separate, but associated, Site Development Permit application (File No. H13-043), which is currently under review for a proposed mixed-use project with apartment units over ground floor commercial. Staff noted that a community meeting was held on January 27, 2014 with the Delmas Park Neighborhood Association. Approximately 25 members of the community attended the meeting to learn about and discuss the proposed rezoning and Site Development Permit applications.

Staff clarified that only the proposed Conforming Rezoning was under consideration for Planning Commission's recommendation and City Council's decision. Should the City Council approve the proposed rezoning, staff would continue to review the associated Site Development Permit application, which is subject to its own community outreach and public hearing process.

Staff received and distributed a number of handouts to supplement the testimony provided by members of the community (see attached).

Dean Hanson, the applicant, spoke on behalf of the proposed rezoning and provided his insights on the history of the area leading to the current Light Industrial Zoning designation that covers the subject property and much of the neighborhood. Mr. Hanson described the positive attributes of the area that make it a desirable location to develop and how his proposed project could have a catalytic effect for further redevelopment in the area.

Eight members of the D'Arpino family, who own several parcels near the proposed rezoning on Lorraine Avenue, along with several other speakers provided testimony in opposition to the proposed rezoning and requested that the Planning Commission either defer the hearing on the proposed rezoning until the completion and adoption of the Diridon Station Area Plan or recommend that the City Council deny the proposed rezoning. The family members noted that they have been actively assembling the parcels they own along Lorraine Avenue with the ultimate goal of one day proposing a comprehensive redevelopment of the area and commented that development of the subject site would be detrimental to their goal.

Several of the speakers suggested that the City should explore and implement revisions to the DC – Downtown Primary Commercial Zoning District that would require lot consolidation prior to redevelopment. One of the proposed changes that would promote lot consolidation is to limit when Section 20.70.370 of the Zoning Code can be applied. This provision currently allows projects on parcels 10,000 square feet or less to provide no parking. The proposed change would allow this provision to only apply on small parcels that are located between or adjacent to properties that are not likely to redevelop.

In addition to the above, several speakers suggested that the City should develop a "micro-lot" and "micro-unit" development policy to guide staff's review of development proposed on small lots and/or developments that propose small units. One speaker expressed concern that development of the proposed site would preclude plans for extension of the Los Gatos Creek trail along the creek instead of on sidewalks.

Kurt Anderson, on behalf of the applicant, reminded the Planning Commission that only the proposed Conventional Rezoning was being considered for their recommendation and that the proposed Site Development Permit application for the proposed project is still under review. Mr. Anderson noted that the D'Arpino family had the opportunity to purchase the subject site when it was recently on the market, but did not. Instead, the applicant purchased the property and initiated the process for rezoning to a designation that conforms to the City's General Plan, which if approved would facilitate the applicant's proposed project.

The Commission asked the applicant if he approached the adjacent property owners and considered consolidation of parcels. The applicant responded that he has had discussions with the D'Arpino family about working together on a bigger project but they were not able to reach an agreement.

In response to comments raised by the public and to follow-up questions from the Commission, staff provided the following:

- The City encourages consolidation of parcels to promote mixed-use and high density development within growth areas, but does not have any policies that would require consolidation before development is allowed.
- Like the subject site, all of the properties along Lorraine Avenue have a General Plan Land Use designation of Downtown, and if the owners of those properties proposed a rezoning to the DC – Downtown Primary Commercial Zoning District, staff would recommend approval.
- The DC – Downtown Primary Commercial Zoning District is the zoning district that best conforms to the applicable General Plan Land Use designation of Downtown.
- A consistency determination with the Diridon Station Area Plan does not need to be made for the proposed rezoning or the Site Development Permit until the Diridon Plan has been adopted by City Council.
- The public hearing process for the associated Site Development Permit application would be a Planning Director's hearing. The applicant or any property owner or resident within 1,000-feet of the property may appeal the Planning Director's decision to approve, conditionally approve, or deny the project to the City Council for a final decision.

A motion was made to recommend that the City Council deny the proposed rezoning from the LI – Light Industrial Zoning District to the DC – Downtown Primary Commercial Zoning District. Although the Commission agreed that the proposed rezoning is consistent with the General Plan Land Use/Transportation Diagram, Commissioners raised concerns that approving the rezoning would facilitate a project on the subject site, which is in a prominent location, that would not be the most beneficial use for the community and could lead to other similar infill proposals on small sites precluding opportunities for consolidation of parcels and limiting the ability to achieve the City's growth objectives.

In response to a question from the Commission about the implications of a denial recommendation, staff indicated that the City Council has the ultimate decision to approve or deny the proposed rezoning. If the City Council denies the proposed rezoning the property owner would need to wait one year from the date of denial before petitioning for the same rezoning for the same property or any part of the property.

Chair Kline stated his reasons for not supporting the motion to recommend denial, including that the applicant is requesting a rezoning that conforms to the Envision 2040 General Plan and that the Commission should not oppose the proposed rezoning based on opposition to a proposed project (Site Development Permit) that is not before the Commission. Chair Kline suggested that the Commission should not penalize a property owner for following the process.

The Planning Commission approved the motion with a 5-1-1 vote (Kline opposed, Bit-Badal absent) to recommend that the City Council deny the request for Conventional Rezoning.

### **ANALYSIS**

Analysis of the issues regarding the proposed Conventional Rezoning, including General Plan conformance, is contained in the attached staff report.

### **EVALUATION AND FOLLOW-UP**

If the zoning is approved, the applicant would need a Site Development Permit in order to implement a project on the subject site.

### **PUBLIC OUTREACH/INTEREST**

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

As directed by the City Council, a community meeting was held on January 27, 2014. Approximately 25 community members attended the meeting to learn about and discuss the

March 24, 2014

Subject: C13-042

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proposed rezoning and Site Development Permit applications. Generally, those in attendance were supportive of new development and expressed an interest in vacating Lorraine Avenue to provide an opportunity for more public space. The community expressed concern about how the proposed development would relate to potential development of the remainder of the block and how the project might support or hinder that development. Additional concerns were raised about the potential problems of proposing a project with no parking and the impact that would have on the availability of on-street parking.

### **COORDINATION**

This project was coordinated with the Department of Public Works and the City Attorney's Office.

### **CEQA**

Pursuant to Section 15168 of the CEQA Guidelines, the Director of Planning has determined that the proposed rezoning is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, which findings were adopted by City Council Resolution No. 76041 on November 1, 2011. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040, and the proposed rezoning does not involve new significant effects beyond those analyzed in this Final EIR.

/s/

DAVID SYKES, SECRETARY  
Planning Commission

For questions please contact Steve Piasecki, Interim Planning Official, at 408-535-7893.

Attachments: Planning Commission Staff Report  
Correspondence

**STAFF REPORT**  
**PLANNING COMMISSION**

**FILE NO.:** C13-042

**Submitted:** October 9, 2013

**PROJECT DESCRIPTION:**

Conventional Rezoning from the LI - Light Industrial Zoning District to the DC - Downtown Primary Commercial Zoning District on a 0.10 gross acre site.

**LOCATION:**

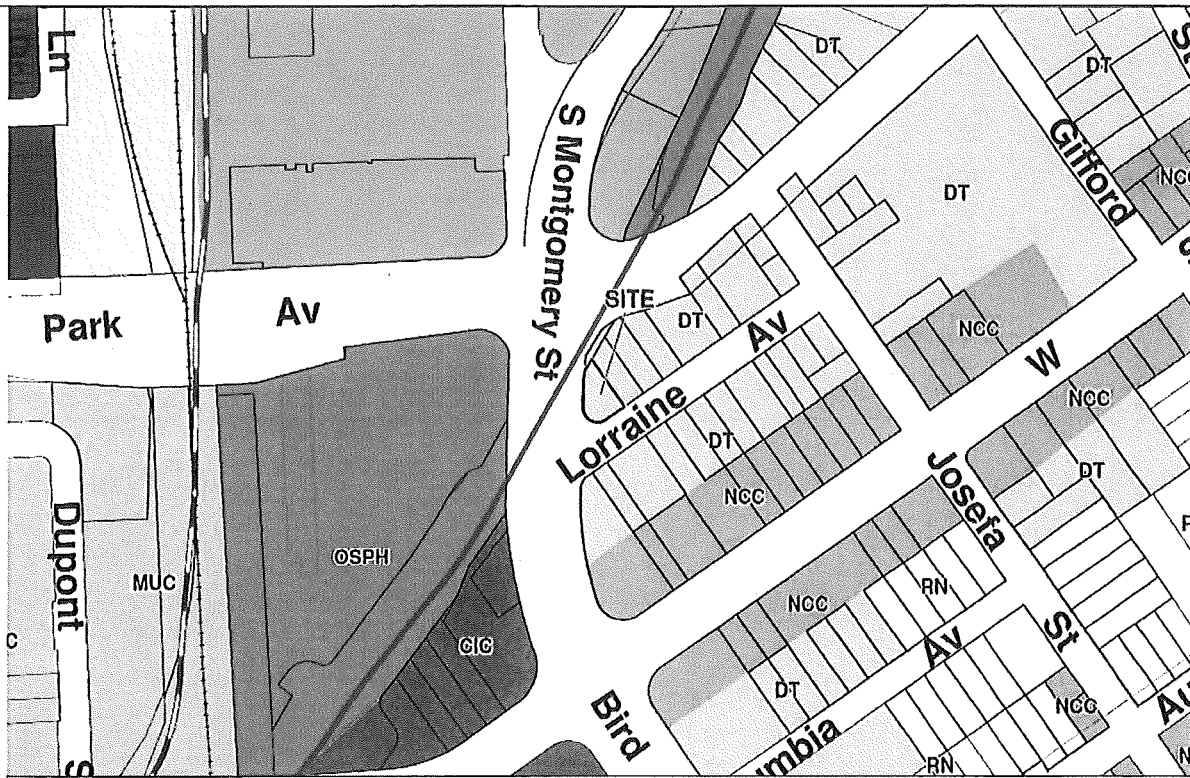
Northeast corner of Lorraine Avenue and S. Montgomery Street (565 Lorraine Avenue)

Zoning	LI - Light Industrial
Proposed Zoning	DC - Downtown Primary Commercial
General Plan	Downtown
Council District	3
Annexation Date	3/16/1911
SNI	Delmas Park
Historic Resource	No
Specific Plan	None

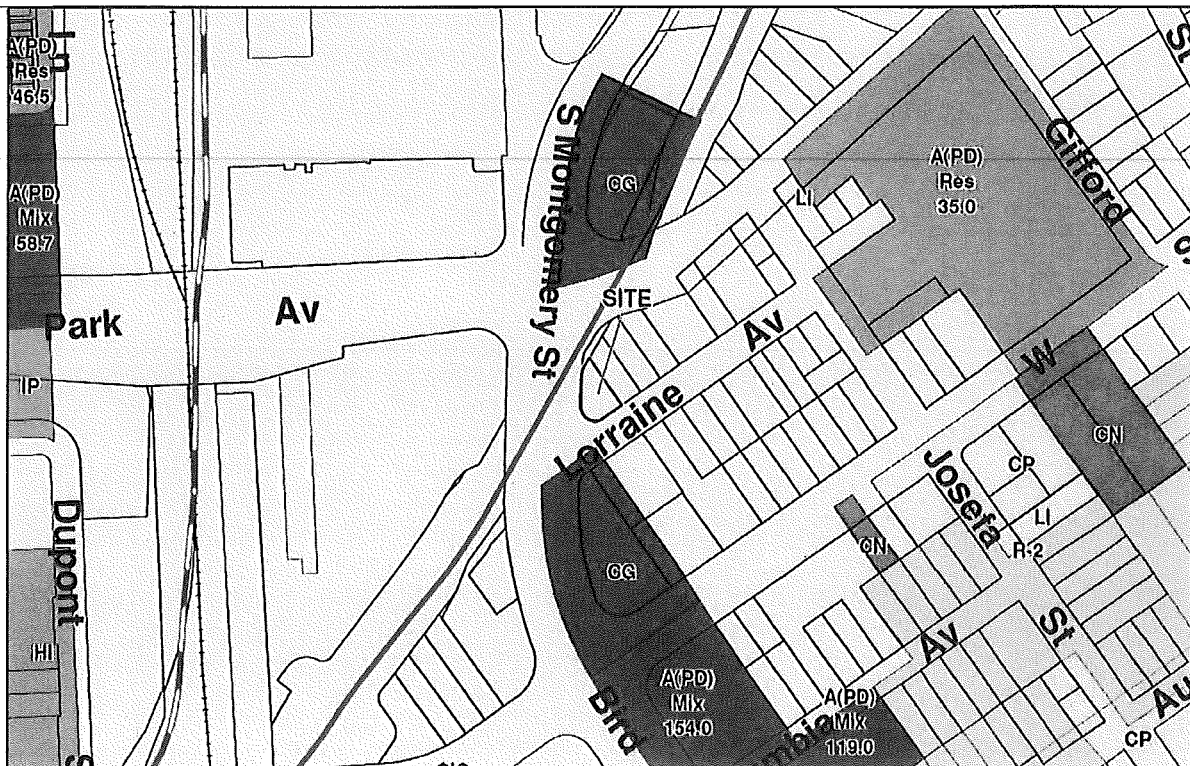
Aerial Map



# ENVISION 2040 GENERAL PLAN



## ZONING



## **RECOMMENDATION**

Staff recommends that the Commission recommend approval of the proposed Conventional Rezoning to the City Council for the following reasons:

1. The proposed Conforming Conventional Rezoning is consistent with the goals and policies of the Envision San Jose 2040 General Plan, specifically:
  - a. The zoning will comply with the site's General Plan Land Use/Transportation Diagram designation of Downtown.
  - b. The proposed rezoning would allow uses on the subject site that are compatible with the surrounding uses.
2. There is no substantial evidence that the project will have a significant effect on the environment. Pursuant to Section 15168 of the CEQA Guidelines, the proposed project is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the Envision San Jose 2040 General Plan and does not involve new significant effects beyond those analyzed in this Final EIR.

## **BACKGROUND & DESCRIPTION**

On October 9, 2013, the applicant, Dean Hanson, requested a Conventional Conforming Rezoning of the subject property from the LI - Light Industrial Zoning District to the DC - Downtown Primary Commercial Zoning District to facilitate the future development of the site with a mixed-used commercial and residential development.

The property was developed in 1918 with a one-story single family home. Mixed-use commercial and residential developments are not permitted in the LI - Light Industrial Zoning District. The rezoning to Downtown Primary Commercial allows mixed-use development with ground floor commercial and residential above with the issuance of a Site Development Permit.

### **Site and Surrounding Uses**

The 0.10 gross acre corner lot is developed with a one-story single family home, adjacent to a vacant lot. The site is bounded by industrial uses to the west, south of Lorraine Avenue, and north of Park Avenue. Access to the site is provided from by Lorraine Avenue and Montgomery Street.

### **City Process**

The project was removed from the December 17, 2013 City Council agenda and changed from a conforming rezoning to conventional rezoning, because the Downtown Primary Commercial does not have a conforming zoning district. In addition, the City Council requested a community meeting be held to examine additional rezoning of properties near the project site. The applicant, in addition to applying for a rezoning has submitted for review a Site Development Permit application; (File N. H13-043) to develop a six-story, mixed-use building with 30 multi-family residences and 2,507 square-feet of ground floor commercial



## **ANALYSIS**

The proposed conventional rezoning was analyzed with respect to the following: 1) conformance with the Envision San José 2040 General Plan, and 2) conformance with the California Environmental Quality Act.

### **Conformance to the General Plan**

The proposed rezoning of the subject site to the DC - Downtown Primary Commercial Zoning District conforms to the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Downtown.

The Downtown land use designation allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and residential uses. In terms of use, the General Plan defers to the Zoning Ordinance for more specific guidance on allowed uses. As described above, mixed-use development is a permitted use in the DC - Downtown Primary Commercial Zoning District, with the issuance of a Site Development Permit.

### **California Environmental Quality Act (CEQA)**

Pursuant to Section 15168 of the CEQA Guidelines, the Director of Planning has determined that the proposed rezoning is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, which findings were adopted by City Council Resolution No. 76041 on November 1, 2011. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040, and the proposed rezoning does not involve new significant effects beyond those analyzed in this Final EIR.

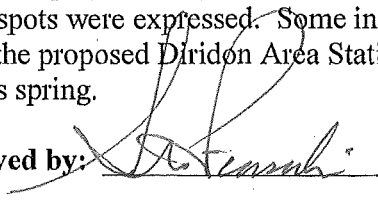
## **PUBLIC OUTREACH/INTEREST**

Signage was posted at the site to inform the public about the proposed change. Property owners and occupants within a 500-foot radius were sent public hearing notices for the City Council hearing. This staff report has been posted on the City's web site. Staff has been available to discuss the proposal with interested members of the public.

As directed by the City Council, a community meeting was held on January 27, 2014 at the Delmas Park Neighborhood Community Association meeting at the IJava Café. Approximately 25 community members attended the meeting. Both the rezoning and the Site Development Permit were discussed. Generally, those in attendance were in support of development and expressed an interest in vacating Lorraine Street for future development to incorporate more public space. During the discussion, the community expressed to the applicant the need to

provide more information about the potential vision for the adjacent properties on the Lorraine Street block and how the project would incorporate or hinder those types of development. In addition, concerns about the potential problems of proposing a project with no parking and the impact to the availability of off-street parking spots were expressed. Some in attendance were concerned about the projects conformity with the proposed Diridon Area Station Plan, which is anticipated to be heard by the City Council this spring.

**Project Manager:** Tong (John) Tu

**Approved by:** 

**Date:**

3.4.14

Owner/Applicant:	Attachments:
Jacqueline Merlino Golzio 543 Lorraine Ave San Jose, CA 95110	City Council Memo 12-17-13
Dean Hanson 13389 Folsom Blvd. Folsom, CA 95630	



## Memorandum

**TO:** MAYOR AND CITY COUNCIL      **FROM:** Councilmember Sam Liccardo

**SUBJECT:** REZONING THE REAL  
PROPERTY LOCATED ON THE  
NORTHEAST CORNER OF  
LORRAINE AVENUE AND SOUTH  
MONTGOMERY STREET – C13-  
042      **DATE:** December 13, 2013

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**APPROVED:** *Sam Liccardo* *PE*

**DATE:** *12/13/13*

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**RECOMMENDATION:**

Defer the rezoning of the real property located on the northeast corner of Lorraine Avenue and South Montgomery Street (565 Lorraine Avenue) until after a community meeting is held and direct staff to hold a community meeting to consider the rezoning of all parcels along Lorraine Avenue.

**BACKGROUND**

It has come to my attention that this property is in the vicinity of other parcels that could be aggregated for a larger proposal and rezoning; one in which the neighborhood has expressed an interest in reviewing and providing input on. While property owners and occupants within a 500-foot radius were sent public hearing notices as part of a standard outreach effort, Council Policy 6-30 requires that projects that are part of a significant community interest proposal and have a high degree of interest be subject to broader outreach and a community meeting. Staff should come back to Council after a more consolidated approach with adjoining parcels is considered, and after a community meeting is held.

March 12, 2014

City of San Jose Planning Commission

Re: File No. C13-042  
Rezone from LI to DC  
NEC of Lorraine Ave. & S. Montgomery  
565 Lorraine Ave – Solari

Dear Commissioners:

**I respectfully request that you defer action on the subject property rezoning request until after the City Council has reviewed and approved the Diridon Station Area Plan.**

As a real estate broker, I've represented The D'Arpino Family in acquiring parcels within the Lorraine Ave Neighborhood for the past 20 years. It has long been their goal to assemble as much of the block as possible so that it could be redeveloped to a very high standard. In Nick D'Arpino's words "into something nice".

For years Nick and Rae D'Arpino operated S&S Welding at 525 W. San Carlos Street and as the business grew they acquired adjacent properties. But acquisitions couldn't keep up with the pace of a growing business and eventually they relocated to McEvoy Street. Fortunately for all of us, they didn't stop acquiring properties in the Lorraine Neighborhood which brings us here tonight.

When fully developed the Diridon Station Area will be the economic engine of San Jose. It will be a premier Urban Village second to none anywhere in the country. How extraordinary is the opportunity before us to redevelop 5 acres of land within the Diridon Station Area on a fresh, clean, pallet?

In the past few months, in talking to council members and planning staff, it has become clear that there are policies in place to support and promote infill development of small parcels of less than 10,000 square feet. But these same policies also make it virtually impossible for private assemblers, like the D'Arpino's, to finish their task.

For example, if this rezoning is approved, the developer intends to construct a 30 unit residential complex with no parking. The DC zone and parking ordinance section 20.70.370 B would allow such a development subject to Planning Director approval. That being the case, then it makes no economic sense for The D'Arpino Family, or any other private assembler, to aggregate land over 10,000 square feet and subject themselves to a higher parking standard. Furthermore, assemblers cannot compete economically with these small developments on land cost. There are (26) 5,000 square foot parcels within the Lorraine Ave Neighborhood. Do we want (26) similar developments with no parking?

I do not profess to know the answer or solution to this dilemma. These are issues for the planning commission, planning department, and city council to resolve. What I do know is we have a golden opportunity for private and public collaboration on a prime piece of real estate in the heart of the most important and dynamic area of the City, Diridon Station. Let's get it right.

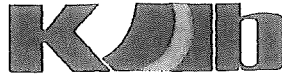
Along with others here tonight, I urge the commission to defer this matter so that City Council can address these issues in conjunction with the Diridon Station Area Plan.

Thank you for your time and consideration.

A handwritten signature in cursive script, reading "Ron Biagini". The signature is written in dark ink and is positioned above a horizontal line.

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Ron Biagini  
239 Belmont Ave.  
Los Gatos, CA 95030



KIMSAUTOBODY

...where every BODY is in good hands...

March 11, 2014

City of San Jose Planning Commission  
Re: File No. C13-042; Rezone from LI to DC  
565 Lorraine Ave – Solari; NEC of Lorraine Ave. & S. Montgomery

Dear Commissioners,

I respectfully urge the Planning Commission to postpone the rezoning and redevelopment of the subject property until such time as the City Council and Planning Department can review and approve the Diridon Station Area Plan.

As a neighboring business owner I am against the idea of redeveloping the subject property at this time. The block itself is already woefully short on street parking. High density redevelopment would be the result of the proposed rezoning and that would have a serious negative impact on my and neighboring businesses.

This neighborhood should be developed all at one time in order to minimize the disruption of my business as well as neighboring businesses and residents as well. Thank you for your consideration and if you need to speak with me regarding any of the above please contact me at the number below.

A handwritten signature in black ink, appearing to read 'James Kim', written over a horizontal line.

James Kim  
KIMSAUTOBODY  
james@kimsautobodysj.com  
408.294.7633 Office  
408.315.3837 Cell

KIMSAUTOBODY 525 W San Carlos St San Jose CA 95126 408.294.7633(O) 408.294.4880(F)  
[www.kimsautobodysj.com](http://www.kimsautobodysj.com)

March 12, 2014

City of San Jose Planning Commission

Re: File No. C13-042; Rezone from LI to DC

565 Lorraine Ave – Solari; NEC of Lorraine Ave. & S. Montgomery

From: Jim So, Kumho Tires Only  
George Guerrero, Guerrero's Auto Body  
James Kim, Kim's Auto Body  
Addis Alemu, Restaurant Owner  
Yong Ko, KS California Auto Body

Dear Commissioners:

As business owners and operators on W. San Carlos Street, in the Lorraine Ave. Neighborhood, we respectfully urge the Planning Commission to postpone the rezoning and redevelopment of the subject property until such time as the City Council and Planning Department can review and approves the Diridon Station Area Plan.

The following factors are very important to us and our business survival and should be seriously considered:

- We already operate in an imperfect environment of mixed uses, residential and commercial.
- Parking is already woefully inadequate and our commercial uses are not compatible with residential uses.
- The Lorraine Ave Neighborhood should be rezoned and redeveloped together to minimize business interruptions from construction and to avoid conflicts between residents and businesses which will increase dramatically when hi density residential development is introduced.

We ask that you defer this matter so that the Lorraine Neighborhood can be transformed at the proper time and so the transformation will be equitable for all parties, present and future.

*Jim So*

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Jim So, Kumho Tires Only, 521 W. San Carlos Street, San Jose, CA

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*George Guerrero*  
George Guerrero, Guerrero's Auto Body, 533 W. San Carlos Street., San Jose, CA

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*James Kim*  
James Kim, Kim's Auto Body, 525 W. San Carlos Street, San Jose, CA

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*Addis Alemu*  
Addis Alemu, Restaurant Owner, 503 W. San Carlos Street, San Jose, CA

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*Yong Ko*  
Yong Ko, KS California Auto Body, 575 W. San Carlos Street, San Jose, CA

March 12, 2014

City of San Jose Planning Commission

Re: File No. C13-042  
Rezone from LI to DC  
NEC of Lorraine Ave. & S. Montgomery  
565 Lorraine Ave – Solari

From: Nick D'Arpino, Property Owner  
Jolaine Woodson, Property Owner  
ILWU6, Fred Pecker, Property Owner

Dear Commissioners:

Collectively, we (3) property owners control approximately 81% of the land bounded by S. Montgomery Street, Park Ave, W. San Carlos, and Josefa Street. This area, including Lorraine Ave. street area, is approximately 5 acres of land.

**WE URGE THE PLANNING COMMISSION TO DEFER THE SUBJECT PROPERTY REZONING REQUEST UNTIL SUCH TIME AS THE CITY COUNCIL HAS REVIEWED AND APPROVED THE DIRIDON STATION PLAN EIR.**

We seek this outcome for the following reasons:

- Piecemeal rezoning and development of the Lorraine Ave. Neighborhood is poor planning. It will result in inferior Urban Development.
- Lorraine Ave should be abandoned which will promote an efficient use of surface land in a pedestrian friendly environment.
- Piecemeal development is an inefficient use of land and will result in lower overall densities, substandard parking, less public meeting space and less open space.

We ask that you defer on this matter so that the Lorraine Neighborhood can be transformed into the "Grand Place" that is envisioned in the Diridon Station Area Plan.

Thank you for your consideration.

Best Regards,



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Nick D'Arpino, Property Owner

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Jolaine Woodson, Property Owner

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Fred Pecker, Secretary-Treasure, ILWU6, Property Owner



March 12, 2014

City of San Jose Planning Commission

Re: File No. C13-042  
Rezone from LI to DC  
NEC of Lorraine Ave. & S. Montgomery  
565 Lorraine Ave – Solari

From: Nick D'Arpino, Property Owner  
Jolaine Woodson, Property Owner  
ILWU6, Fred Pecker, Property Owner

Dear Commissioners:

Collectively, we (3) property owners control approximately 81% of the land bounded by S. Montgomery Street, Park Ave, W. San Carlos, and Josefa Street. This area, including Lorraine Ave. street area, is approximately 5 acres of land.

**WE URGE THE PLANNING COMMISSION TO DEFER THE SUBJECT PROPERTY  
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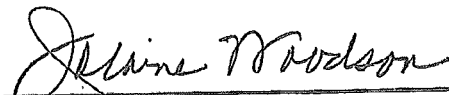
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Thank you for your consideration.

Best Regards,

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Nick D'Arpino, Property Owner



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Jolaine Woodson, Property Owner

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Fred Pecker, Secretary-Treasure, ILWU6, Property Owner

March 12, 2014

City of San Jose Planning Commission

Re: File No. C13-042  
Rezone from LI to DC  
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565 Lorraine Ave – Solari

From: Nick D'Arpino, Property Owner  
Jolaine Woodson, Property Owner  
ILWU6, Fred Pecker, Property Owner

Dear Commissioners:

Collectively we (3) property owners control approximately 81% of the land bounded by S. Montgomery Street, Park Ave, W. San Carlos, and Josefa Street. This area, including Lorraine Ave., is approximately 5 acres of land.

**WE URGE THE PLANNING COMMISSION TO DEFER THE SUBJECT PROPERTY REZONING REQUEST UNTIL SUCH TIME AS THE CITY COUNCIL HAS REVIEWED AND APPROVED THE DIRIDON STATION PLAN.**

We seek this outcome for the following reasons:

- Piecemeal rezoning and development of the Lorraine Neighborhood is poor planning. It will result in inferior Urban Development.
- The City and the community has spent a great amount of time and resources to craft the Diridon Plan and no piecemeal project should be approved until that plan has had final review and approval.
- If we develop this land in aggregate Lorraine Ave could be abandoned which will promote more efficient use of surface land in a pedestrian friendly environment.
- Piecemeal development will result in lower overall densities, substandard parking, less public meeting space and less open space.
- Approving the proposed project with 30 homes and 2507 square feet of commercial and no parking will impact our property with no chance of mitigation.

We ask that you defer on this matter so that the Lorraine Neighborhood can be transformed into the "Grand Place" that is envisioned in the Diridon Station Area Plan. Thank you for your consideration.

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Nick D'Arpino, Property Owner

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Jolaine Woodson, Property Owner

*Fred Pecker, Secretary-Treasurer*

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Fred Pecker, Secretary-Treasurer, ILWU6, Property Owner

March 12, 2014

City of San Jose Planning

Re: File #C13-042 Rezone from C1 to DC

Dear Commissioners,

Hi my name is Nick D'Arpino my family and I own approx. 26 parcels adjacent to the MONTGOMERY and LORRAINE building site.

I started working at S & S Welding, Inc. in 1959. Since then I have purchased the business in 1970 and accumulated property as the business started to grow.

As the years went by, my wife and I started accumulating properties on San Carlos, Lorraine, Park Ave, and Josepha Streets. We started to realize that we have something here that would really enhance the City. We went down to the redevelopment agency and they informed us that this will be the GATEWAY to downtown.

It took 43 years to acquire such properties in this area. Since that process has taken so long, why would the City be willing to make such a quick decision to build a building and redevelop a sub-parcel that truly should NOT be placed on this site. The decision should be deferred until the Diridon Plan has passed and the City can take it's time to make its proper choice. This project proposed on this 4,500 sq. ft. lot would be a default on the City's part and a HUGH MISTAKE!!!

The City has a 5 acres in place, why would they be willing to sacrifice such a great development.

My wife and I would love to see our vision come true. Together we can plan a Great Place.

Thank you.

Nick D'Arpino



1161 McBain Ave. Campbell, CA

City of San Jose Planning

March 12, 2014

Re: File #C13-042 Rezone from CI to DC

Dear Commissioners,

- My name is Vince D'Arpino. My family owns the property adjacent to 565 Lorraine Ave. We also own 26- 5000 square foot lots within this block.
- I urge the commission to defer your decision of approving the rezoning of 565 Lorraine Ave. until after the Diridon Station EIR Plan has been passed.
- By deferring your decision it will allow City Planning and City Council time to assess this type of development and reconsider why this type of fill-in development should not be allowed on a four acre block that is ready for a grand development.
- By passing this zoning change now it will open the flood gates on all parcels less than 10,000 square feet to have this same type of development that could compromise a greater development such as the potential of a Marquis Type development like this site has to offer.
- This block is a prime location for a beautiful hotel. The Diridon Station will be the largest transit hub west of the Mississippi. The future ballpark will be directly across the street. People coming in from out of the area are going to need a place to stay, could there be a better location?
- My father has been assembling properties on this block for 43 years. It would be a shame for the community to lose an opportunity like this to have a grand development across the street from the potential future home of the San Jose A's.

Thank you for your time.

A handwritten signature in black ink, appearing to read "Vince D'Arpino". The signature is fluid and cursive, with a large, stylized "V" at the beginning.

Vince D'Arpino

2124 Maykirk Road

San Jose, CA 95124

March 12, 2014

City of San Jose Planning

Re: File #C13-042 565 Lorraine Ave.

Dear Commissioners,

My name is Donna D'Arpino-Rubino my family owns approx.26 parcels surrounding this building site. The City is very close to passing the master Diridon Plan. The property we are concerned about is 565 Lorraine Ave. This building site needs to be analyzed further. The City will be losing out on a prime piece of property that will enhance the gateway to the "downtown Diridon District". By passing such a project on this site will deface a prominent corner and the City would lose out on an opportunity.

This decision should be deferred until the Diridon Plan has passed so the City can take a closer look on how this would impact all locations like this site and similar sites.

The City should plan this area with consideration for the development of the entire area to compliment the Diridon Plan. If the planning commission were to approve the zoning change now on this site they would be allowing a contractor/builder to develop a speculation property for their own profit and interests but not for what is best for the community. **THIS IS A MISTAKE!!!**

This decision should be deferred until the Diridon Plan has passed so the City can take a closer look on how this would impact all locations like this site and similar sites.

By building this structure it will impact the community in the following ways:

- Destroy the look of a prime piece of real estate. The gateway of downtown Diridon District.
- High density development with NO parking (will impact others)
- Too small of a parcel to build properly it does not maximize density
- If permits are granted, others in the area will follow suit, and would not look attractive for a gateway to "Downtown".
- My father had the foresight, with many years of planning to accumulate the land to know that someday a spectacular complex with hotel, shopping and restaurants could be developed. It would be a very special attraction that the City of San Jose could enjoy and be proud of for many years.
- We ask that you please consider our thoughts, and do what is right for the City. Make us proud to be a part of what could be a great plan.

Thank you.

  
Donna D'Arpino-Rubino

1747 Maykirk Court, San Jose, CA

March 12, 2014

City of San Jose Planning

Re: File# C13-042 Rezone CI to DC

Dear Commissioners,

My name is Michelle D'Arpino and my family has assembled the adjacent property since 1971. I recently graduated from Santa Clara University in 2012, and since, I commute to Mountain View from San Jose each day.

The proposed development is being designed for a person that fits my current work lifestyle - however, I would have no place to park outside my residence. This unit is being designed to capture the attention of similar young professionals, however I would never consider renting if I didn't have suitable parking.

Please defer your decision on the rezoning change of 565 Lorrienne Ave. until the San Jose Diridon Plan has been solidified. Creating a fill-in development property like such, will only further disrupt San Jose's opportunities and attractions for young professionals. Deferring your decision will allow City Planning and City Council more time to assess this fill-in development and the many that will likely follow.

Michelle D'Arpino

A handwritten signature in black ink that reads "Michelle M. D'Arpino". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

2124 Maykirk Road  
San Jose, CA 95124

March 12, 2014

City of San Jose Planning

Re: File # C13-042 Rezone from CI to DC

Dear Commisssioners,

Hi, My name is Vanessa Rubino and I am part of the D'Arpino family properties adjacent to the MONTGOMERY & LORRAINE subject property.

Born and raised in San Jose, I've watched the city transform as countless apartment buildings and shopping centers developed overtime. The "Silicon Valley" has become home to many of the world's largest technology corporations flocking thousands of people to this district each year. As the city grows larger, it seems as though the city council cannot keep up with the fast passed demand to house the influx of people coming to this area causing for quick decisions without proper analysis. I encourage you to take a closer look on your decision to redevelop or piecemeal fashion.

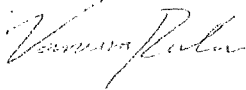
Please defer your decision until the Diridon Plan has passed.

This irrational project will destroy the look of a prime five acre parcel into the gateway of downtown San Jose and does not promote architectural harmony. Plus, these parcels can be developed with no parking which only will impact others in the area, as parking in downtown San Jose is already a bit of a challenge. Why make the city worse when you could make it better?

Overall, this is not the proper site for this type of building as the city has the ability to plan something great right from the beginning. Why destroy it without taking the time to really think it through as it has taken 43 years to acquire such properties in the area.

Thank you.

Vanessa M. Rubino



1747 Maykirk Court, San Jose, CA

City of San Jose Planning

Re: File #C13-042 565 Lorraine Ave.

Dear Commissioners,

My name is Christina Rubino I am part of the D'Arpino family properties surrounding the 565 Lorraine Ave. building site for which we are concerned about.

I think it would be of best interest for the City to defer this project until the Diridon Plan has passed. I believe the Planning department needs to take a closer look how this project would impact all locations like this site and similar sites. The proposed site is not the right time or place to build such a structure. Being so close to a possible stadium I believe larger structures may be the way to go with sufficient parking. This would be a structure to pursue if the area was already developed and you needed to put this building in a small area. To put this building up with great potential property around it, is a BIG MISTAKE.

As young as I am and to witness a project like this to slip by and know nothing about building requirements and such it seems to me this would ruin such a grand site. I can't see building such a large structure on such a small square ft. area. As the City stated in the plan, unlike most infill parcels, we have a five acre pallet to create "The Great Place."

Please consider this request not to build such a structure in an area that may have the potential of ruining a beautiful site.

Having a beautiful hotel, famous restaurants, shopping and attractions all in one is a great way to welcome guests to the City.

We all want great projects for the City of San Jose. Let's plan them properly.

Thank you for listening.

  
Christina M. Rubino

1747 Maykirk Court, San Jose, CA



City of San Jose Planning

March 12, 2014

Re: File #C13-042 Rezone from CI to DC

Dear Commissioners,

- My name is Deanna Libert. I am a downtown resident. My family also owns the property adjacent to 565 Lorraine Ave. We also own 26- 5000 square foot lots within this block.
- As a nearby resident, I know that parking in the area is a tremendous problem. Any new structures built in the area without adequate parking will only worsen the problem for homeowners and businesses.
- I urge the commission to defer your decision of approving the rezoning of 565 Lorraine Ave. until after the Diridon Station EIR Plan has been passed.
- By deferring your decision it will allow City Planning and City Council time to assess this type of development and reconsider why this type of fill-in development should not be allowed on a four acre block that is ready for a grand development.
- By passing this zoning change now it will open the flood gates on all parcels less than 10,000 square feet to have this same type of development that could compromise a greater development such as the potential of a Marquis Type development like this site has to offer.

Thank you for your time.

Deanna Libert

38 North Almaden Blvd. #1418

San Jose, CA 95110

**Comments to the Planning Commission**

**March 12, 2014 Hearing**

**Agenda item C130042**

**Rezoning of property on northeast corner of Lorraine Avenue and S. Montgomery Street**

The members of the Commission already are aware that the Los Gatos Creek is in a long culvert beneath Montgomery Street and Park Avenue immediately adjacent to the property in question. I would like to remind you though that an extension of the Los Gatos Creek Trail is planned to follow the Creek and to link Willow Glen and points south with Diridon Station, the Arena, and the Guadalupe River Trail.

Because of this culvert, right now that trail is planned to be brought onto the sidewalk and to cross the intersection via crosswalks – hardly one's ideal for a "trail".

Please be aware, though, that the City is already on record in favor of restoring the Los Gatos Creek to its natural environment, which would enable the trail to remain off the street. (See note below for details.).

I am concerned that the proposed rezoning may facilitate the development of this property without paying attention to the effect on the possibility of restoring the Los Gatos Creek to a natural state, and of allowing the Los Gatos Creek Trail to actually follow the creek.

No action should be taken that would preclude the restoration of the Los Gatos Creek to a more natural setting where it crosses Park Avenue and Montgomery Street. A very desirable by-product of this restoration will be to allow the proposed extension of the Los Gatos Creek Trail to follow the creek through the area, rather than being relegated to the sidewalks and crossing the street in crosswalks, as is currently planned.

Submitted by Martin Delson  
633 Palm Haven Avenue  
San Jose, CA 95125

Note: the City is already on record in favor of restoring the Los Gatos Creek to its natural environment. That is the result of the City having endorsed the draft Diridon Station Area Plan in the council action of January 25, 2011. This action includes a statement to "*Direct the City Manager and the Redevelopment Agency Executive Director to consider including the Diridon Station Area Framework for Implementation priorities in potential agreements, contracts and projects where appropriate.*"

And that "Framework for Implementation" has the following very clear priority:

*"Restore the natural setting of the waterways in the urban areas, including specifically that of the Los Gatos Creek as it passes under Montgomery Street and Park Avenue, and, to the extent possible, implement a river walk model on the one in San Antonio that balances nature and commercial vibrancy."* (Implementation Priority 1 in the chapter on Parks and Trails).

Oral statement by Frank Bosche  
C13-042  
3/12/14

My name is Frank Bosche. I am on the Board of Directors of the Delmas Park Neighborhood Association. We are requesting that you defer a decision on rezoning this parcel until all the input from the community and adjacent property owners can be taken into account.

We are not trying to stop this micro development, but concerns have emerged in our neighborhood since this issue so recently came to our attention.

Here are a few:

The micro development process in some locations, may be at odds with the 2040 plan and the Diridon plan.

It incentivizes small property owners not to consolidate but to build as small as possible to avoid the costs of parking, open space, and public amenities.

It could set a precedent that would allow dense micro developments to occur lot by lot without parking, leaving future larger developments to address any parking or other issues created by the micro developments.

All lots that meet the micro development criteria, and are less than 10,000 square feet can be built with no parking. There are 27 parcels that could be developed this way in the area bound by Bird, San Carlos, Josefa, and Park. That would be 800-1000 units with no parking.

We urge you to postpone rezoning until the micro development policy can be rewritten if needed, to take into account density, parking in the surrounding neighborhood, and the goals of the Diridon plan.

Thank you.

March 12, 2014

File No. C13-042

My name is Bert Weaver. I am a Board member of the Delmas Park Neighborhood Association, and I urge you to defer consideration of this application until after the new *Diridon Plan* has been adopted. Here are my reasons.

1. This area is the gateway to downtown, directly across from the proposed ballpark, and part of the Diridon Station Area. This is a signature location that should be developed in a coordinated fashion according to the plan. The piecemeal approach that would begin with this zoning change would inhibit the kind of development that is desired here.
2. The proposed structure is not appropriate for this site. Approval would allow for a six-story, 30-unit residential tower on a 5000 sq. ft. lot, a micro-development on a prominent street corner in an important area. This kind of structure would be appropriate to fill in an already developed area, but it is not appropriate as the first parcel to be developed.
3. The proposed development does not fit with the *Diridon Plan*. The plan calls for "Transit Residential" land use in this area, which allows a density of up to 175 units per acre. The proposed development significantly exceeds this density.
4. The new *Diridon Plan* will be implemented as a major policy change in a very short time. Deferring this rezoning request until then puts very little burden on the applicant.

I respectfully request you to defer this rezoning application.

J. D. Bert Weaver  
411 Park Ave Unit 135  
San Jose, CA 95110



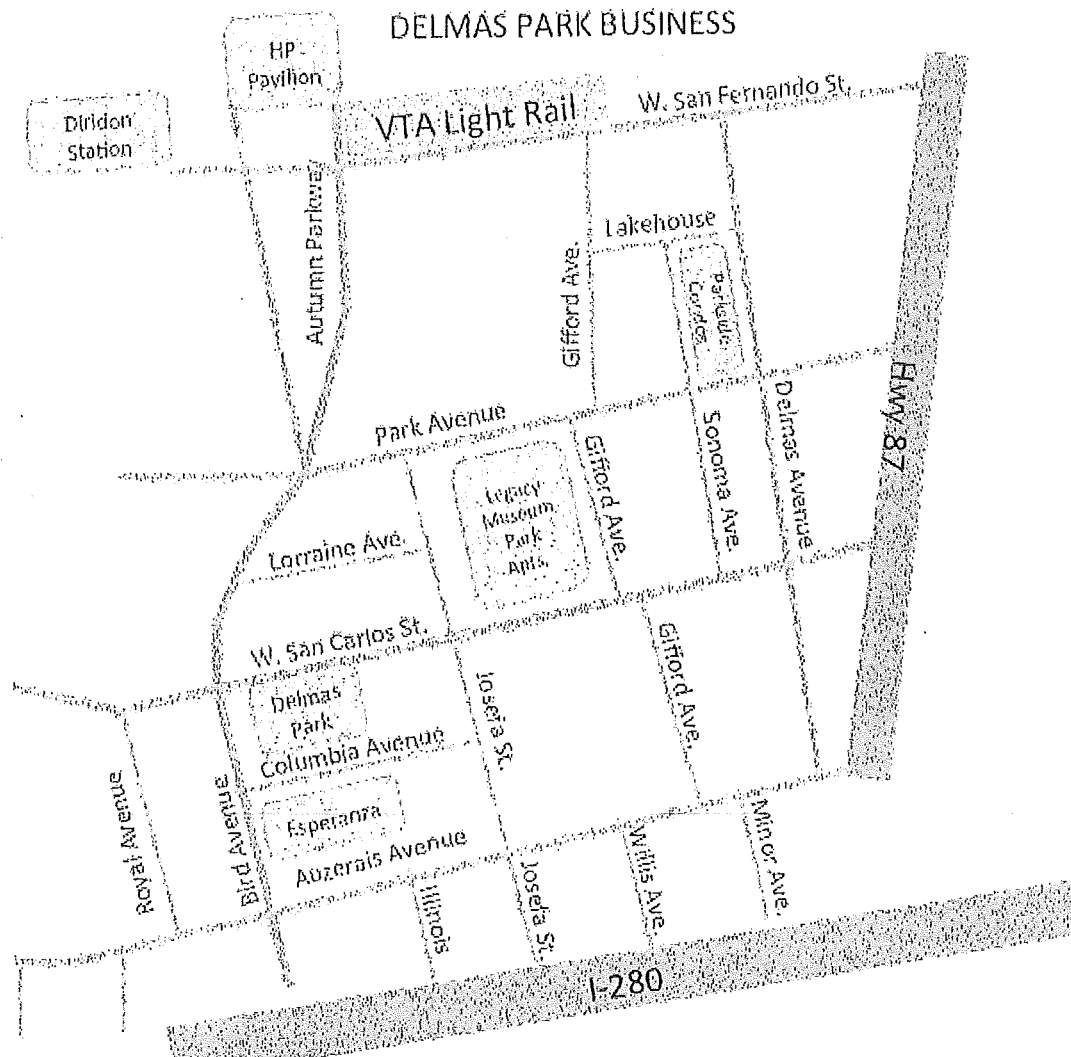
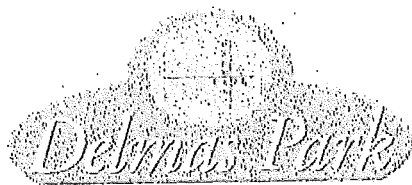
Oral Statement To Planning Commission by Phil Hood re: 565 Lorraine C13-042  
March 12, 2014

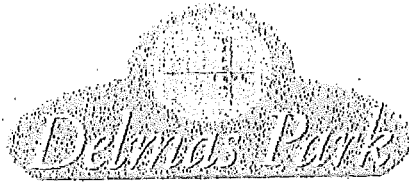
I am Phil Hood, the President of the Delmas Park Neighborhood Association.

Though our residents are eager for and supportive of new development, based on what is known we do not like this particular micro-development..

- This two-block area has been discussed or designated for important high-density development for more than a decade and now faces piecemeal micro-development that is not in-fill but rather the first step in development. Additionally, if the rezoning is approved and the applicant can develop with a site development permit
- There may no chance to change that corner due to ballpark development or planned Autumn Parkway improvements.
- The shape of Park Avenue is locked in even though the southern boundary of Park Avenue is being reconfigured along its length from Bird to Delmas.
- It may not be possible to vacate Lorraine in the future to create a more significant higher-density development.
- If the rezoning will allow the applicant to develop with only a Site Development Permit, we respectfully ask that you deny the applicant's request to rezone this site. Looking to the future, we would also ask the Planning Commission to look at the proposed Diridon Plan to make sure the Downtown Zoning regulations cannot be used to allow a micro development as the first development on a large developable site. The advantages to the city of waiting for additional input and acceptance of the Diridon Plan outweigh the disadvantages.

Finally, I would add that as a practical matter the adjacent streets are permit parking only. This will make it difficult or impossible for visitors to this building to find on street parking anywhere within a block or two.





## **3/12/14 Notes to the Commission from residents and property owners regarding 565 Lorraine C13-042**

1. To the planning commission: We are concerned with the impact of micro-developments on key parcels in the Delmas Park neighborhood and other downtown-zoned neighborhoods. We ask that you defer re-zoning of the parcel at 565 Lorraine until the Greater Diridon Plan has been accepted and all stakeholders have a chance to weigh in on this important development area.

*Jean Reynolds, RT, RMT*  
Outpatient Oncology Manager/Dignity Health  
St. Mary's Medical Center  
450 Stanyan Street  
San Francisco, CA 94117  
office-415-750-2923  
Jean.Reynolds@DignityHealth.org

2. To the planning commission:

We are concerned with the impact of micro-developments on key parcels in the Delmas Park neighborhood and other downtown-zoned neighborhoods. We ask that you defer re-zoning of the parcel at 565 Lorraine until the Greater Diridon Plan has been accepted and all stakeholders have a chance to weigh in on this important development area

Not requiring that 'Parking' be included in the development is a serious mistake and will be a burden on EVERYONE in the neighborhood. It is difficult NOW to find parking on the street. Often my visitors need to park 1 to 2 blocks away.

Joe Coughlin  
Condo-owner/resident at 411 Park Ave #137, San Jose, 95110 since 1987

3. Dear San Jose City Planning Commission Members,

An important issue has come to our attention recently. My husband, Terry, and I are residents of the Delmas Park neighborhood. As residents of the San Jose downtown area, we support the development of residential units in the downtown area. We know that new development will contribute to a more robust downtown population. However, we are concerned with the impact of micro-developments on key parcels in the Delmas Park neighborhood and other downtown-zoned neighborhoods. We ask that you defer re-zoning of the parcel at 565 Lorraine until the Greater Diridon Plan has been accepted and all stakeholders have a chance to weigh in on this important development area.

Respectfully,

Claire and Terry Coman  
411 Park Avenue  
San Jose, CA 95110

San Jose Planning Commission  
Planning Commission Agenda: 03-12-14  
Item No.: 3.f.

Dear Honorable Planning Commissioners,

The Delmas Park Neighborhood Association\* does not support the rezoning of this property. Our concern is not the height, density or parking provided by the project. Our concern is the lost opportunity to consider a signature development in the area surrounded by Montgomery/Bird Avenue, Park Avenue, Josefa Street and West San Carlos that could include the vacation of Lorraine Avenue.

We are a neighborhood that has lived with completely incompatible parcel by parcel land uses. Our neighborhood was developed in the early 1900's with single-family residences. In the 1950's a light industrial overlay allowed the development of auto related businesses such as body shops, repair shops, paint shops to be located directly adjacent to single family homes. This was horrible planning and we are still living with it to this day (see photos at end of letter).

The proposed development which accompanies this request for rezoning echoes the mistakes of the 1950's. If you allow the development by right of a six story building on a .10 of an acre lot on a street lined with single story homes without a comprehensive look at the surrounding area and no guarantee that development will integrate with anything else – history will likely repeat itself.

If you approve the request before you tonight, and the development moves forward it will:

- Impair any ability to realign Montgomery if needed for High Speed Rail, BART, or the Autumn Parkway extension.
- Establish a fixed boundary on Park Avenue, a street with a conflicting block by block southern edge between Montgomery and Delmas.
- Eliminate any chance to have a signature development on the corner across the street from the proposed baseball stadium or any other potential development
- Eliminate the ability to consider the vacation of Lorraine Avenue, an unnecessary one-block street between Josefa Avenue and Montgomery
- Set precedence that would allow dense micro developments to occur lot by lot without parking, leaving future larger developments to address any parking issues created by the micro developments

According to the Downtown Zoning regulations, if you approve the applicants request to change the zoning of this site to DC – Downtown Primary Commercial, this site can develop with the issuance of a Site Development Permit. In addition there will not be any parking requirements for residents or businesses because it does not meet the threshold of a 10,000 square foot site or 30,000 square feet of building area. This site is approximately 4,500 square feet with 20,000 square feet of building area, leaving the development proportionally out of balance with the Downtown Zoning regulations. If the lot size to building area proportion complied with the Downtown Zoning regulations the building area would be 13,500 square feet. As a



neighborhood we are very concerned that the Downtown Zoning regulations would be used to allow the first development on a large city block ripe for redevelopment to be a micro development.

This site is located on a prominent corner which would be across the street from the proposed baseball stadium and once again permits piecemeal development of the Delmas Park neighborhood. As a neighborhood, we welcome dense well planned development. We do not support the development of a very small corner parcel where there is the potential to create a signature development located at the gateway to the Diridon Station area, SAP Center, and potential A's baseball stadium.

**20.70.370 Enlargement, intensification or change in use.**

A. Any structure which is a legal nonconforming use pursuant to Chapter 20.150 is exempted from the application of this part, except to the extent of the construction of any additional structure or enlargement of the existing structure.

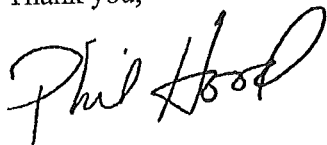
B. New structures on parcels that are ten thousand square feet or less with up to thirty thousand square feet of building area do not need to provide parking.

C. Additions to structures totaling less than twenty percent of the existing structure are exempt from providing parking.

D. Additions to a historic landmark, structures in a historic district, or contributing structures to a historic district, do not need to provide parking if the addition conforms to the Secretary of Interior Historic Design Guidelines.  
(Ords. 26248, 27091, 29217.)

If the rezoning will allow the applicant to develop with only a Site Development Permit, we respectfully ask that you deny the applicants request to rezone this site. Looking to the future, we would also ask the Planning Commission to look at the proposed Diridon Plan to make sure the same scenario will not re-occur with any other potential rezoning.

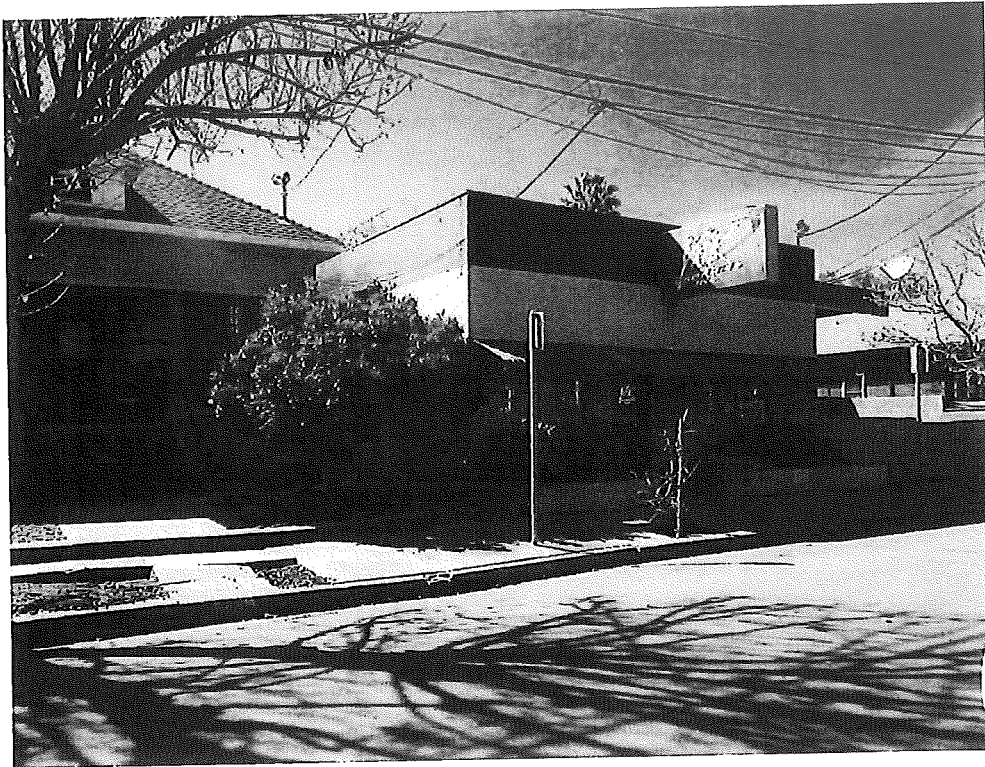
Thank you,



Phil Hood  
President  
Delmas Park Neighborhood Association

PS. See attached photos showing houses next to industrial businesses, the result of the last bad planning decision in the Delmas Park neighborhood.

\*Delmas Park encompasses the area enclosed by the Guadalupe Expressway to the east, W. San Fernando Street to the north, Bird Avenue to the west, and Interstate 280 on the south. It includes the streets Delmas, Lakehouse, Gifford, Park, Josefa, Sonoma, Lorraine, W. San Carlos, Minor, Willis, Illinois, and Auzerais.



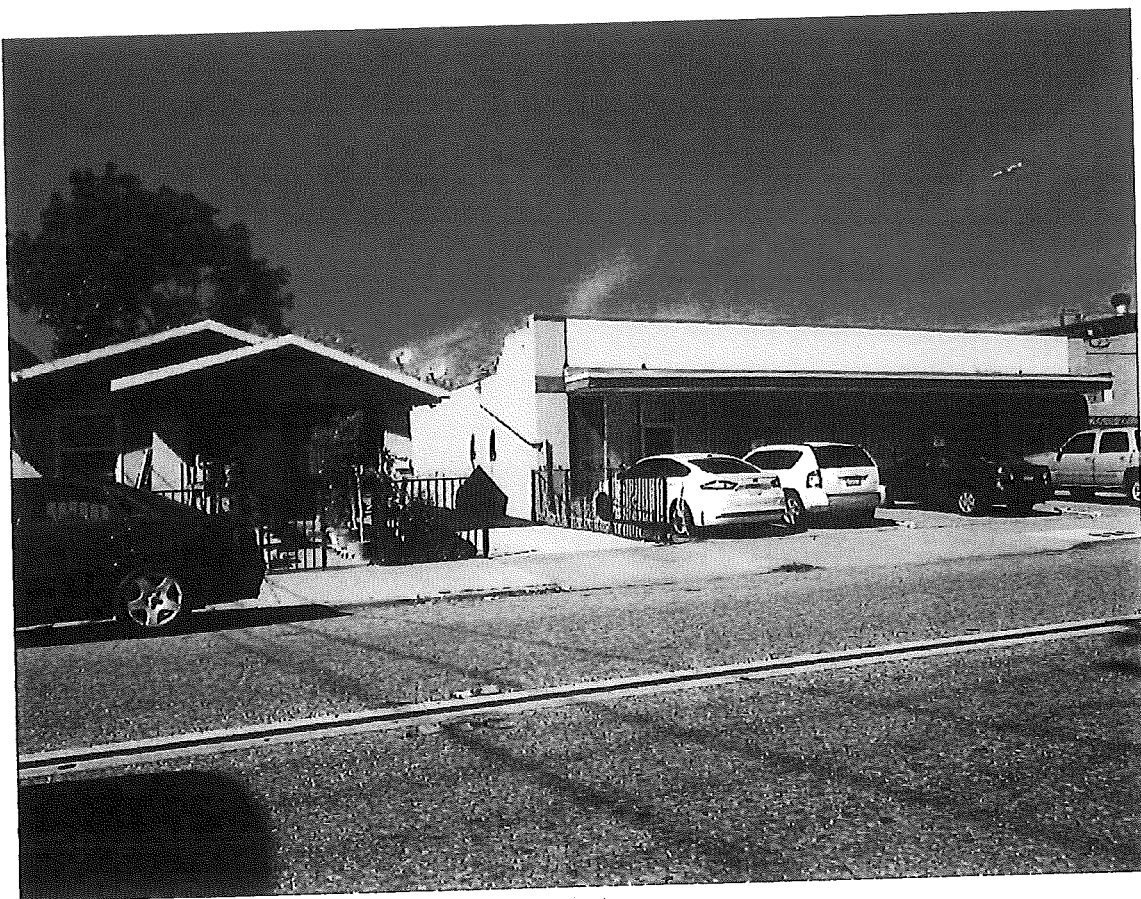
Family home next to printing shop on 300 block of Gifford Avenue.



Home sits in shade cast by medical supplies warehouse in the middle of 400 block of Auzerais.

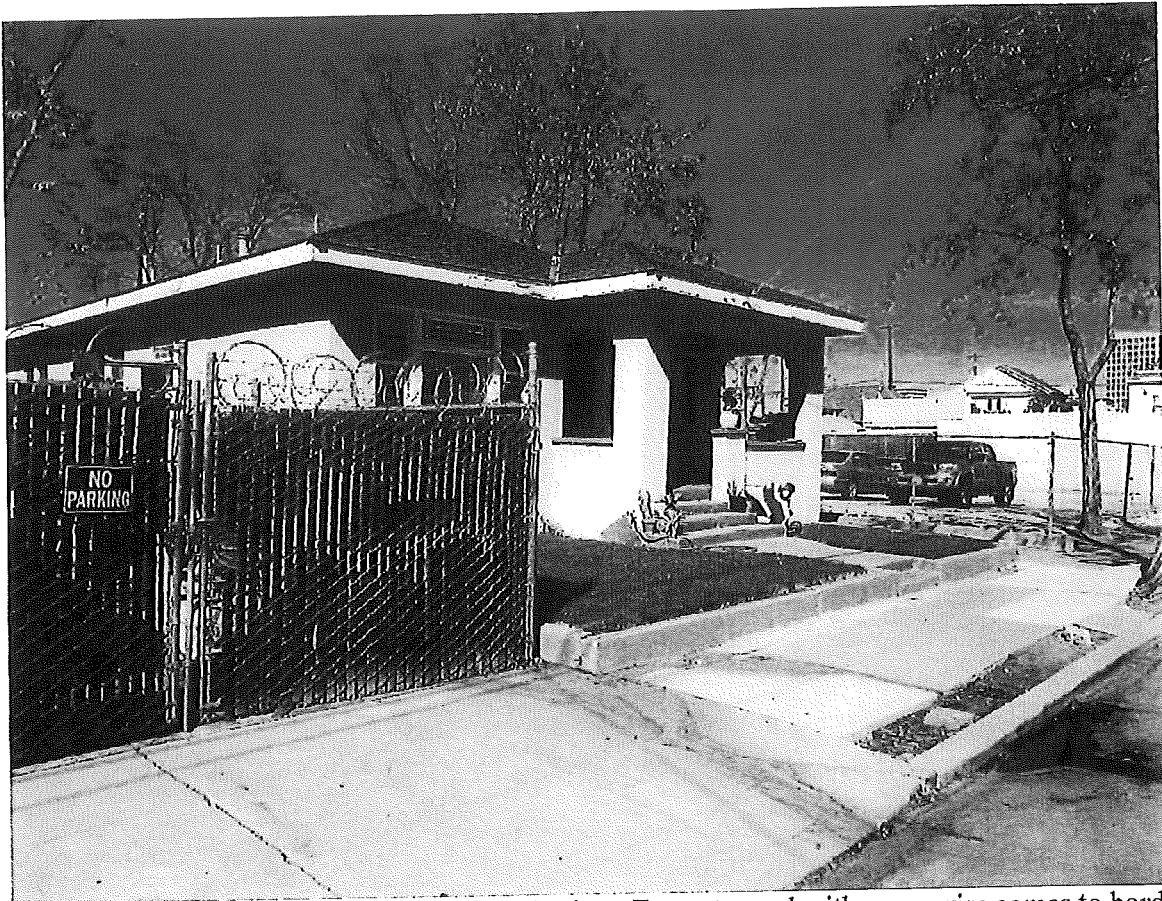


Street of architecturally sound older homes but across the street is a smog station and a fence topped by barbed wire. (corner of Willis and Auzerais).

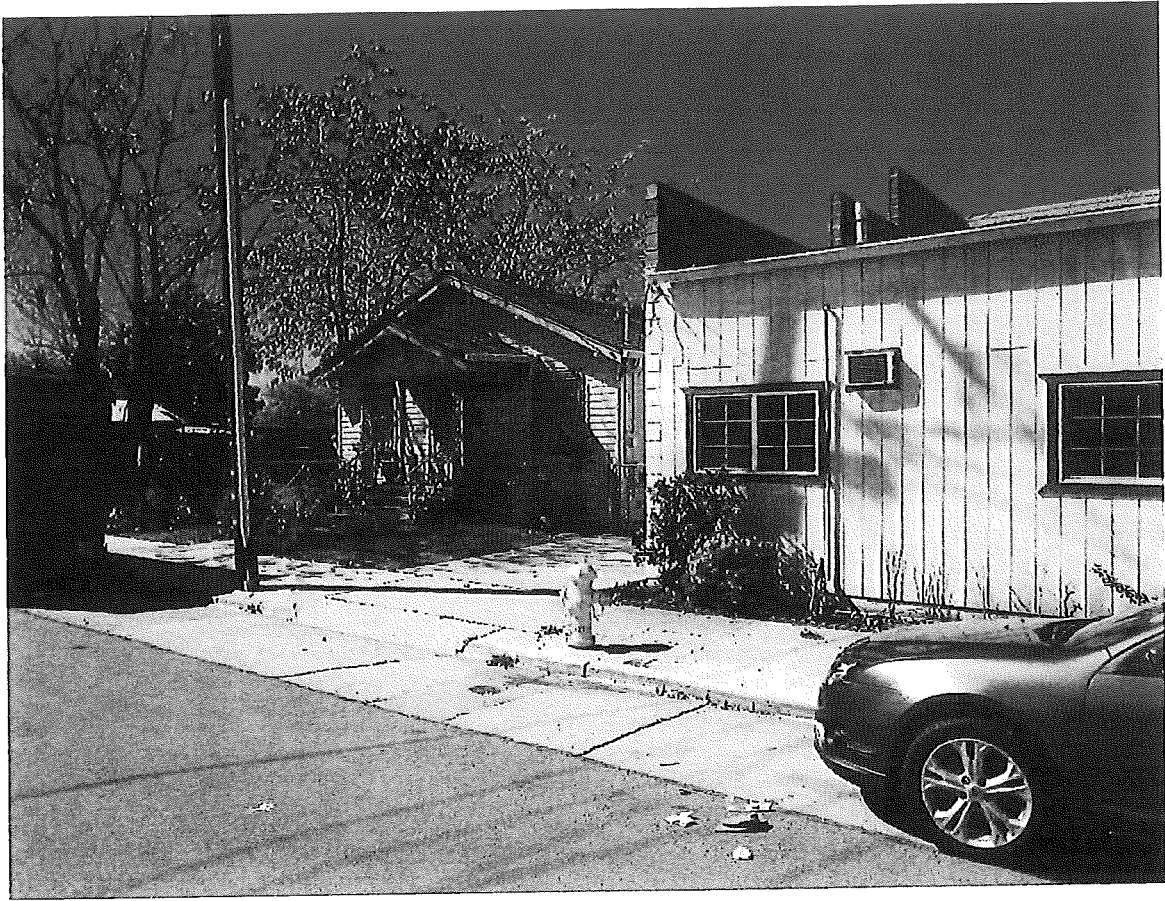


Homes next to construction company. Middle of 400 block of Auzerais.





Home on 500 block of Lorraine next to body shop. Fence topped with razor wire comes to border of yard where children play. Incidentally, this area has permit curbside parking for existing restaurants and restrictions on parking stickers for new residents. If residents of the new building do have cars they will be searching for on-street parking two to four blocks away.



Other side of body shop on Lorraine. If the zoning change under discussion goes through and this building is constructed, then any of these landowners could apply to put up their own standalone 6-story tower with no parking on a single lot like these.

**Comments to the Planning Commission**

**March 12, 2014 Hearing**

**Agenda item C130042**

**Rezoning of property on northeast corner of Lorraine Avenue and S. Montgomery Street**

The members of the Commission already are aware that the Los Gatos Creek is in a long culvert beneath Montgomery Street and Park Avenue immediately adjacent to the property in question. I would like to remind you though that an extension of the Los Gatos Creek Trail is planned to follow the Creek and to link Willow Glen and points south with Diridon Station, the Arena, and the Guadalupe River Trail.

Because of this culvert, right now that trail is planned to be brought onto the sidewalk and to cross the intersection via crosswalks – hardly one's ideal for a "trail"

Please be aware, though, that the City is already on record in favor of restoring the Los Gatos Creek to its natural environment, which would enable the trail to remain off the street. (See note below for details.)

I am concerned that the proposed rezoning may facilitate the development of this property without paying attention to the effect on the possibility of restoring the Los Gatos Creek to a natural state, and of allowing the Los Gatos Creek Trail to actually follow the creek.

No action should be taken that would preclude the restoration of the Los Gatos Creek to a more natural setting where it crosses Park Avenue and Montgomery Street. A very desirable by-product of this restoration will be to allow the proposed extension of the Los Gatos Creek Trail to follow the creek through the area, rather than being relegated to the sidewalks and crossing the street in crosswalks, as is currently planned.

Submitted by Martin Delson  
633 Palm Haven Avenue  
San Jose, CA 95125

Note: the City is already on record in favor of restoring the Los Gatos Creek to its natural environment. That is the result of the City having endorsed the draft Diridon Station Area Plan in the council action of January 25, 2011. This action includes a statement to *"Direct the City Manager and the Redevelopment Agency Executive Director to consider including the Diridon Station Area Framework for Implementation priorities in potential agreements, contracts and projects where appropriate."*

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